

Manolis
Application No.: 10/648,563

REMARKS

DOUBLE PATENTING

The Office Action of 6/28/2006 stated:

Claims 1-20 are rejected on the ground of nonstatutory double patenting over claims 1-38 of U. S. Patent No. 6,583,799 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent. The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: generating a thumbnail associated with the image when the image is associated with the area; partitioning the image into one or more fragments; and uploading each fragment to the remote computer.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application

In response, a terminal disclaimer and appropriate fee were submitted on 1/16/2007 (on the parent patent application number 09/450,804 filed on 11/29/1999). Withdrawal of the provisional double patent is respectfully requested.

THE SECTION 103 REJECTIONS

REJECTIONS OF CLAIMS 1-20

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sutcliffe et al. (US Patent No. 6,253,216) in view of Hoffert et al. (US Patent No. 6,374,260).

The Office Action stated:

Regarding claims 1 and 10, Sutcliffe discloses a computer-implemented method for uploading image data to a remote computer comprising defining an area in a user interface adapted to receive an image (see col. 6, lines 6-67); partitioning the image into one or more fragments (see col. 9, lines 9-43); and uploading each fragment to the remote computer (figures 3-4); however, Sutcliffe fails to explicitly teach generating a thumbnail associated with the image when the image is associated with the area.

Hoffert teaches generating a thumbnail associated with the image when the image is associated with the area (see col. 10, lines 1-65). It would have been obvious to one of an ordinary skill in the art, having the teaching of Sutcliffe and Hoffert at the time the invention was made, to modify uploading each fragment to the remote computer to authorized others to view the personal page of Sutcliffe to include generating a thumbnail associated with the image when the image is associated with

Manolis
Application No.: 10/648,563

the area, as taught by Hoffert. One would have been motivated to make such a combination in order to enable user a preview image before selecting or uploading partitioning image to the remote computer.

Regarding claims 2 and 11, Sutcliffe discloses determining whether a fragment upload was successful (see col. 6, lines 6-54).

Regarding claims 3 and 12, Sutcliffe discloses further comprising generating a message if one or more fragment uploads had failed (see col. 9, lines 43-63).

Regarding claims 4 and 13, Sutcliffe discloses further comprising retrying the uploading step if the fragment upload failed. (see col. 10, lines 15-62).

Regarding claims 5 and 14, Hoffert wherein the message relates to one or more of the following: the name of the file, the number of fragments received, the number of outstanding fragments, the location of the file, and instructions on finishing the upload (see col. 7, lines 54-65 and col. 8, lines 1-33).

Regarding claims 6 and 15, Hoffert discloses wherein generating the thumbnail further comprises decompressing the image file (see col. 4, lines 18-67).

Regarding claim 7, Hoffert discloses wherein generating the thumbnail further comprises loading the local thumbnail into a browser for viewing (see col. 10, lines 18-56).

Regarding claims 8 and 9, Hoffert discloses further comprising generating metadata associated with each fragment (see col. 11, lines 5-21).

As per claims 16-20 are apparatus claims that corresponds to method claims 1-15, and thus are rejected for the aforementioned reason.

Sutcliffe et al. disclose "apparatus of the invention includes a local computer network. Remote users may connect to the local computer network through a larger network, such as the Internet. The local computer network has at least one server computer which can be accessed by remote users. The local computer network also has at least one computer software program and at least one database located therein. The computer software programs prompt a remote user to select a page template for displaying the personal page. The programs next allow the remote user to contribute text and graphics to the personal page. The programs also allow the remote user to authorize others to review the personal page. The programs store attributes representing the layout of the personal page, the text and graphics contributed by the remote user, and the authorization information entered by the remote user in the one or more databases located on the local computer network."

Hoffert discloses "a method and apparatus for uploading, analyzing, searching and displaying multimedia files based on the context and content of the multimedia files."

Manolis
Application No.: 10/648,563

Claim 1 of the instant application recites:

A computer-implemented method for uploading image data to a remote computer, comprising:

- defining an area in a user interface adapted to receive an image;
- generating a thumbnail associated with the image when the image is associated with the area;
- partitioning the image into one or more fragments; and,
- uploading each fragment to the remote computer.

Claim 10 of the instant application recites:

A computer-implemented method of uploading image files from a local computer to a remote computer, comprising:

- receiving input from a user identifying an image file;
- generating a thumbnail image from the image file;
- partitioning an image file into a plurality of fragments;
- initiating an upload of the fragments to the remote computer; and
- displaying information about the status of the upload of the image file.

The limitation of "partitioning the image into one or more fragments" is depicted in Figure 6 and described in the related discussions in the instant application.

Sutcliffe does not disclose the limitation of "partitioning the image into one or more fragments" in claims 1 and 10 of the instant application.

Sutcliffe teaches (col. 9, lines 9-43)

"After selection of a background by the remote user, the remote user may be presented with a Choose Images 176 page. Here, the remote user may select an image for display on the remote user's personal page from a collection of images previously stored on the Local Computer Network 82, or the remote user may enter or upload an image (Upload Images 178) from the remote user's remote computer 70. Uploaded images may comport with any of the standards known in the art for displaying such images on a computer, including the well-known GIF and JPEG standards. Upon uploading of an image by a remote user, the uploaded image may then appear on that remote user's Choose Images 176 page, and may be chosen by the remote user for inclusion on the personal page. An image attribute, perhaps indicating the name and location of the image file on the local computer network 82, may be stored as a Value 158 in the Personal Page Values Table 152 which corresponds to an image field in the template page. Size limits, both in terms of viewing size and storage size of the image, may be employed to limit the size of uploaded images. Depending upon the template selected, the remote user may be presented with more than one opportunity to select or upload an image.

Manolis
Application No.: 10/648,563

Once an image has been selected for display on the personal page, the user may next be presented with an Enter Text 180 page. The Enter Text 180 page may allow the remote user to enter any free form text. The Enter Text 180 page may also present the remote user with questions to answer, or some combination of questions and free form text for display on the personal page. Text attributes may be stored as text in Value 158 fields in the Personal Page Values Table 152 which corresponds to a text field in the template page. Depending upon the template selected, the remote user may be presented with a series of Enter text 180 pages, or a series of fields for entering text on a single Enter Text 180 page."

There is no mentioning of "partitioning the image into one or more fragments" in the above section or other areas in Sutcliffe. The discussion that "size limits, both in terms of viewing size and storage size of the image, may be employed to limit the size of uploaded images" are different from "partitioning the image into one or more fragments". Similarly, Hoffert also does not disclose "partitioning the image into one or more fragments".

In sum, at least one element in claim 1 and 10 is missing in both Sutcliffe and Hoffert. Sutcliffe and Hoffert, singly or in combination, therefore cannot render claims 1 and 10 obvious. Withdrawal of the Section 103 rejections on claims 1 and 10, and their associated dependent claims 1-9 and 11-15 is respectfully requested.

Claim 16 of the instant application recites:

A system for uploading image data to a remote computer, comprising:
a display device for defining an area in a user interface adapted to receive an image;
a computer for generating a thumbnail associated with the image when the image is associated with the area and for partitioning the image into one or more fragments; and,
a communication device for uploading each fragment to the remote computer.

The limitation of "partitioning the image into one or more fragments" is depicted in Figure 6 and described in the related discussions in the instant application.

Sutcliffe does not disclose the limitation of "a computer for generating a thumbnail associated with the image when the image is associated with the area and for partitioning the image into one or more fragments" in claim 16 of the instant application.

Sutcliffe teaches (col. 9, lines 9-43)

Manolis
Application No.: 10/648,563

"After selection of a background by the remote user, the remote user may be presented with a Choose Images 176 page. Here, the remote user may select an image for display on the remote user's personal page from a collection of images previously stored on the Local Computer Network 82, or the remote user may enter or upload an image (Upload Images 178) from the remote user's remote computer 70. Uploaded images may comport with any of the standards known in the art for displaying such images on a computer, including the well-known GIF and JPEG standards. Upon uploading of an image by a remote user, the uploaded image may then appear on that remote user's Choose Images 176 page, and may be chosen by the remote user for inclusion on the personal page. An image attribute, perhaps indicating the name and location of the image file on the local computer network 82, may be stored as a Value 158 in the Personal Page Values Table 152 which corresponds to an image field in the template page. Size limits, both in terms of viewing size and storage size of the image, may be employed to limit the size of uploaded images. Depending upon the template selected, the remote user may be presented with more than one opportunity to select or upload an image.

Once an image has been selected for display on the personal page, the user may next be presented with an Enter Text 180 page. The Enter Text 180 page may allow the remote user to enter any free form text. The Enter Text 180 page may also present the remote user with questions to answer, or some combination of questions and free form text for display on the personal page. Text attributes may be stored as text in Value 158 fields in the Personal Page Values Table 152 which corresponds to a text field in the template page. Depending upon the template selected, the remote user may be presented with a series of Enter text 180 pages, or a series of fields for entering text on a single Enter Text 180 page."

There is no mention of "a computer for generating a thumbnail associated with the image when the image is associated with the area and for partitioning the image into one or more fragments" in the above section or other areas in Sutcliffe. The discussion that "size limits, both in terms of viewing size and storage size of the image, may be employed to limit the size of uploaded images" are different from "partitioning the image into one or more fragments". Similarly, Hoffert also does not disclose "a computer for generating a thumbnail associated with the image when the image is associated with the area and for partitioning the image into one or more fragments".

In sum, at least one element in claim 16 is missing in both Sutcliffe and Hoffert. Sutcliffe and Hoffert, singly or in combination, therefore cannot render claim 16 obvious. Withdrawal of the Section 103 rejections on claim 16, and its associated dependent claims 17-20 is respectfully requested.

Manolis
Application No.: 10/648,563

CONCLUSION

Applicants believe that the above discussion is fully responsive to all grounds of rejection set forth in the Office Action and the claims should be in condition for allowance.

If for any reasons the Examiner believes a telephone conference would in any way expedite resolution of the issues raised in this appeal, the Examiner is invited to telephone the undersigned at 650-610-3522.

Respectfully submitted,



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